

**IOWA WORKFORCE DEVELOPMENT  
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

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**SHAYNE GRAFF**  
Claimant

**APPEAL NO. 18A-UI-00707-B2T**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

**HISTORIC ARNOLDS PARK INC**  
Employer

**OC: 12/17/17**  
**Claimant: Appellant (1)**

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Iowa Code § 96.5-1 – Voluntary Quit

**STATEMENT OF THE CASE:**

Claimant filed an appeal from a decision of a representative dated January 8, 2018, reference 01, which held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on February 23, 2018. Claimant participated and was represented by attorney Jennifer Bennett Finn. Employer participated by Charley Whittenburg.

**ISSUE:**

The issue in this matter is whether claimant quit for good cause attributable to employer.

**FINDINGS OF FACT:**

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on December 15, 2017. Claimant voluntarily quit on that date because of his discomfort with his work environment.

Claimant worked as a supervisor over 8-10 maintenance workers for employer. Prior to claimant's employment, the maintenance workers had smoked in the maintenance building and in the engine room of the large boat employer runs. These actions weren't allowed. Once claimant was hired, he sought to address these matters through putting up 'no smoking' signs and later creating a smoking area outside of the building.

Claimant stated that multiple workers flaunted and defaced the signs he put up and continued to smoke in multiple buildings. Additionally, claimant stated that a worker addressed him in a threatening manner on multiple occasions.

Claimant met with employer on December 15, 2017, and when employer acknowledged claimant's displeasure, claimant stated he wanted to quit. There was ongoing work available to claimant at the time of his quit.

**REASONING AND CONCLUSIONS OF LAW:**

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

The administrative law judge holds that the evidence has failed to establish that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because he was uncomfortable with the work environment and the smoking at work. The administrative law judge struggles with claimant's argument that although he was the supervisor over the workers who smoked in rooms that they weren't supposed to, he essentially couldn't do anything about it. Claimant stated that shortly after he was hired he went to his supervisor to complain about the smoking and to establish a smoking zone. Employer agreed to claimant's requests to establish such a zone.

As claimant continued his work supervising the maintenance workers, he became frustrated that his employees did not follow the smoke free areas. Claimant did not go to employer with his complaints, as he assumed employer knew the workers were smoking where they weren't supposed to smoke. Employer denied that he knew employees were smoking in improper places. Although claimant could not terminate employees without his supervisor's approval, he could have gone to the supervisor and had suspensions and then terminations issued if rules weren't followed. Claimant chose not to do this.

Ordinarily "good cause" is derived from the facts of each case keeping in mind the public policy stated in Iowa Code Section 96.2. *O'Brien v. EAB* 494 N.W.2d 660, 662 (Iowa 1993) (citing *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986)). "The term encompasses real circumstances, adequate excuses that will bear the test of reason, just grounds for the action, and always the test of good faith." *Wiese v. IA Dept. of Job Serv.*, 389 N.W.2d 676, 680 (Iowa 1986). "Common sense and prudence must be exercised in evaluating all of the circumstances that led to an employee's quit in order to attribute the cause for the termination." *Id.* In this matter, common sense indicates that claimant had the power to effectuate change with employees in positions inferior to his, but chose not to do so. Claimant's quit was brought about by the fact that he did not wish to directly address people doing improper actions, although his position gave him the power to do so. Therefore, his quit is deemed not to be with good cause attributable to employer, but rather of his own accord.

**DECISION:**

The decision of the representative dated January 8, 2018, reference 01, is affirmed. Unemployment insurance benefits shall be withheld until claimant has worked in and been paid wages for insured work equal to ten times claimant's weekly benefit amount, provided claimant is otherwise eligible.

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Blair A. Bennett  
Administrative Law Judge

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Decision Dated and Mailed

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